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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Secularism and the Realisation of Human Rights

It is well established that democratic institutions and the rule of law are two necessary features of the political arena that help ensure the realisation of human rights. Indeed, the Human Rights Council has adopted a number of resolutions highlighting the interdependent and mutually reinforcing relationship between democracy, rule of law and human rights.[1] We suggest that in addition to these factors, a further component – perhaps more easily misconstrued but no less essential –is secularism. Along with democracy and the rule of law, we hold secularism to be necessary, but of course by no means sufficient, for guaranteeing inclusivity and ensuring the principles underscoring human rights, such as freedom, equality, dignity and universalism.

Political secularism: A pre-requisite for equality and human dignity

We use the term 'secularism' (or secular state) here to describe the separation of the state from the institutions of religion or belief - or at least the neutrality and impartiality of the state and its institutions in their attitude and actions regarding alternative religions and beliefs. Secularism should be distinguished from imposed irreligion, and from a 'secular society', a term that suggests a society with a high population of non-religious citizens, or in which the importance of religiosity is low. Secularism does not indicate a state under which the communal institutions are inimical to religious belief; that would be contrary to secularism as here intended.

Underpinning secularism is the equality of all under the law and state, regardless of belief – an equality that constitutes a basic foundational premise for the very conceptualisation of human rights.

Not only does this form of secularism rest upon the principle of equality, but human dignity too. It identifies individuals as equal citizens and not merely members of a religious or non-religious group; this gives dignity to the individual as a human rights bearer, not to be stereotyped as a member of a particular group or fetishized under an inherently divisive identity politics. In a recent report, the High Commissioner emphasised the role of inclusivity and respect for others as central, along with the enhancement of participation in the decision-making process, and human rights education, to the realisation of human rights.[2] Likewise, in a secular public space, people are free to think and believe as they wish, being primarily identified as an equal citizen, instead of via homogenous belief groupings. This is a context, we argue, that is conducive to cohesion, inclusivity and mutual understanding.

Political secularism: A pre-requisite for freedom of thought, religion or belief and expression

Secularism, as described, is necessary for, and a natural emanation of, individual freedom. Its origins are rooted in the principle of free thought, the precursor and progenitor of other freedoms and rights, including freedom of religion and freedom of expression.

Freedom of religion or belief, as set out in Articles 18 of the UDHR and ICCPR requires equal and just treatment of all people *irrespective of their beliefs*. A secular state is the only possible guarantor of this; that is, a set of laws, government and institutions that do not assume or impose any religion or belief on any individual citizen, and guarantee the right to freedom of religion or belief to all, including the practice by any individual or group of their religion or belief so long as it does not infringe upon the rights of others.

Crucially, a secular state gives no privilege to any religion or belief matters on which citizens will naturally vary and disagree and which lie outside the competence of the state.

Indeed, any official preference for one religious belief (or non-religious belief) system can never be understood to enhance the freedom even of the dominant religious group; instead, while it inherently curtails the religious or non-

[1] E.g. A/HRC/RES/19/36
[2] A_HRC_30_20_ENG

religious beliefs of minorities, it also prevents members even of the dominant religious group from seriously questioning, reforming, changing or dissenting from assumed beliefs.

When states start to define citizens not by their humanity but by their membership of a religious group, discrimination automatically follows. For example, in Lebanon the entire system of government is based on sectarian quotas, with different rights and roles available to Sunni Muslims, Shiite Muslim and Maronite Christians, etc. This practice not only codifies and encourages religious discrimination, precluding and discouraging even smaller minorities including the non-religious, but it also discourages people from leaving the religion of their birth, because they will lose all the state privileges that come with belonging to that religion.

There are other practices and measures including a range of laws regulating various aspects of peoples' lives used in a number of states, which undermine freedom of religion or belief and other rights, such as freedom from inference in one's privacy, expression, or education. A secular system would not permit such violations. For instance, compulsory religious registration in conjunction with a list of religions permitted by government, such as in Indonesia and Jordan; certain legal rights (for example, the right to marry particular persons) being contingent upon subscribing to an officially recognised religion, such as the case in Iran or Israel; or as in Burma, Djibouti, and Maldives, forms of political participation depending upon citizens officially registering themselves as having certain religious affiliations.

As noted at the top, rule of law is a prerequisite for, and interdependent with, human rights and necessary for any state context in which human rights can flourish;[3] more specifically however, we would argue that that rule of law needs to be secular. That is, everyone is equal before the law, regardless of religion, belief or non-belief. Contrary to that, currently in many countries, the judicial process is replaced by religious codes or processes and family law is based on exclusively religious rules, and jurisdiction in family law cases is administered by religious authorities rather than the civil authorities. Plainly this inhibits the realisation of many rights. Often this disproportionately affects the rights of women.

The protection of the right to freedom of thought, religion or belief involves manifestations of such beliefs through expression. This means that secularism, in line within international law, promotes a space for free expression, grounded in the understanding that no ideas or practices should be held immune from criticism since human progress requires a free marketplace in ideas.

In line with this, a secular system does not require bans on religious clothing.[4] Whilst, the 'laïcité' of France was used as reasoning behind the banning of full-face coverings in the country and in the ECHR's ruling in France's favour,[5] it seems by no means clear that secularism, as outlined here, should result in that sort of prohibition. Indeed, on the contrary, such a move undermines the French citizen's right to freedom of expression of their religious convictions since it goes beyond the qualifications allowed for in Article 19 of the UDHR and ICCPR.

The importance of universalist language for universal human rights

Whilst political and legal secularism creates space for dialogue and the recognition of diversity, it asks that arguments are presented in universal terms so as to ensure mutual understanding. It is upon these universal foundations our rights and the vocabulary common to all humankind are grounded. Obviously, those individuals with religious beliefs will draw much motivation from such beliefs, but when they make arguments expected to be taken into account by politicians and decision-makers, for instance, if the language and reasoning used is religion-specific then it is not publicly commensurable and cannot be used as a basis for proposing or changing public policy. Instead our language and arguments need to be universal, such that (while not everyone will agree) at least everyone can understand. Similarly, no atheist should expect any attention to arguments around public policy premised on the nonexistence of God, nor more broadly any person offering any incommensurable metaphysical position.

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[3] A/HRC/RES/19/36

[4] The right to free expression and the right to manifest one's religious belief are not absolute and can be restricted in limited cases, as noted in Article 19. For instance, limited in proportionally in response to legitimate security concerns.

[5] Case of *S.A.S vs. France*, ECHR, 1 July 2014.

Crucially, discriminatory or harmful practices defended based on arguments uniquely relying on religious, traditional or cultural practices are incommensurable and incompatible with secularism and the human rights framework.

Conclusion and recommendations

Political and legal secularism is a pre-requisite for the full enjoyment of human rights, democracy and the rule of law. A legal and political arena that is secular provides an essential backdrop for the prevention of human rights violations. It helps provide the conditions for the flourishment of human rights since it insists upon a framework where people are seen as human rights agents and not defined primarily by their beliefs or arbitrary characteristics (such as gender or race).

Despite this, little attention has been paid at the international level, and none committed by the Human Rights Council and the OHCHR, to the issue of secularism, its importance, its integral link to human rights, how it should be understood or indeed how the principles of secularism might be applied in practice.

Accordingly, we ask the OHCHR and Council to explore the role of secularism in the protection of human rights. We also specifically call on members and observers of the Council to:

- Call on any states who are not politically or legally secular, to become so; only then will the realisation of human rights, specifically freedom of religion or belief, be realisable for their citizens.
- Use universalist language when engaging with arguments on human rights, and, specifically, not to frame any criticism or abrogation of such rights in exclusivist or religious-specific language.
- To examine the unique privilege of the Roman Catholic Church in having membership, in the shape of the Holy See, at the United Nations.